

Evan J. Smith (SBN 242352)  
BRODSKY & SMITH, LLC  
9595 Wilshire Boulevard, Suite 900  
Beverly Hills, CA 90212  
Telephone: (877) 534-2590  
Facsimile: (310) 247-0160  
esmith@brodskysmith.com

*Attorneys for Plaintiffs Michel De Letter and  
Elizabeth De Letter*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHEL DE LETTER AND  
ELIZABETH DE LETTER, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

ULTRATECH INC., ARTHUR W.  
ZAFIROPOULO, RONALD BLACK,  
MICHAEL CHILD, PARAMESH GOPI,  
BEATRIZ INFANTE, DENNIS RANEY  
AND HENRI RICHARD,

Defendants.

**Case No.: 3:17-cv-01542-PJH**

**CLASS ACTION**

**STIPULATION AND [PROPOSED]  
ORDER CONCERNING PLAINTIFFS'  
VOLUNTARY DISMISSAL OF THE  
ABOVE ACTION AND PLAINTIFFS'  
COUNSEL'S ANTICIPATED  
APPLICATION FOR AN AWARD OF  
ATTORNEYS' FEES AND EXPENSES**

WHEREAS, on February 2, 2017, Ultratech, Inc. ("Ultratech" or the "Company") and Veeco Instruments Inc. ("Parent") announced that they had entered into an Agreement and Plan of Merger (the "Merger Agreement"), dated as of February 2, 2017, among Ultratech, Parent, and Parent's wholly owned subsidiary, Ulysses Acquisition Subsidiary Corp. ("Merger Sub," and together with Parent, "Veeco") pursuant to which Merger Sub would acquire all of the outstanding shares of Ultratech and Ultratech stockholders would receive \$21.75 per share in cash and 0.2675 shares of Veeco stock per share of Ultratech common stock (the "Transaction");

WHEREAS, on March 13, 2017, Ultratech filed a Preliminary Proxy Statement on Schedule 14A (the "Preliminary Proxy") with the SEC. Among other things, the Preliminary

1 Proxy (i) summarized the Merger Agreement, (ii) provided an account of the events leading up to  
2 the execution of the Merger Agreement, (iii) stated that Ultratech's board of directors determined  
3 that the Transaction was in the best interests of Ultratech's stockholders and recommended that  
4 the Company's stockholders vote in favor of the Transaction, and (iv) summarized the basis for  
5 the fairness opinion by Merrill Lynch, Pierce, Fenner & Smith Incorporated, the financial advisor  
6 to Ultratech;

7 WHEREAS, on March 17, 2017, plaintiff The Vladimir Gusinsky Rev. Trust filed a  
8 purported class action lawsuit in the District Court for the Northern District of California on  
9 behalf of itself and other public stockholders of Ultratech, challenging the adequacy of the  
10 disclosures made in the Preliminary Proxy, captioned *The Vladimir Gusinsky Rev. Trust v.*  
11 *Ultratech, Inc., et al.*, Case No. 4:17-cv-01468-PJH (the "Vladimir Gusinsky Action");

12 WHEREAS, on March 22, 2017, plaintiffs Michel De Letter and Elizabeth De Letter (the  
13 "De Letter Plaintiffs," and together with The Vladimir Gusinsky Rev. Trust, "Plaintiffs") filed a  
14 purported class action lawsuit in the District Court for the Northern District of California, on  
15 behalf of themselves and other public stockholders of Ultratech, challenging the adequacy of the  
16 disclosures made in the Preliminary Proxy, captioned *De Letter v. Ultratech, Inc., et al.*, Case  
17 No. 3:17-cv-01542-WHA (the "De Letter Action");

18 WHEREAS, the Vladimir Gusinsky Action and the De Letter Action allege, among other  
19 things, that Defendants Ultratech, Arthur W. Zafiropoulo, Ronald Black, Michael Child,  
20 Paramesh Gopi, Beatriz Infante, Dennis Raney and Henri Richard (collectively, "Defendants")  
21 committed disclosure violations under Sections 14(a) and 20(a) of the Securities and Exchange  
22 Act of 1934 (the "Exchange Act"), and Rule 14a-9 promulgated thereunder;

23 WHEREAS, after negotiations between the parties in the Vladimir Gusinsky Action and  
24 the De Letter Action, on April 24, 2017, Ultratech filed its Definitive Proxy Statement on  
25 Schedule 14A (the "Definitive Proxy") with the SEC containing supplemental disclosures to the  
26 Preliminary Proxy (the "Supplemental Disclosures");

1 WHEREAS, Plaintiffs in the Vladimir Gusinsky Action and the De Letter Action agree  
2 that as a result of the filing of the Supplemental Disclosures, the disclosure issues related to the  
3 Transaction identified in both complaints have become moot;

4 WHEREAS, no class has been certified in either the Vladimir Gusinsky Action or the De  
5 Letter Action;

6 WHEREAS, for the avoidance of doubt, no compensation in any form has passed directly  
7 or indirectly to Plaintiffs or their attorneys and no promise, understanding, or agreement to give  
8 any such compensation has been made, nor have the parties had any discussions concerning the  
9 amount of any mootness fee;

10 WHEREAS, on May 18, 2017, Judge Alsup sua sponte referred the De Letter Action to  
11 this Court to determine whether the De Letter Action is related to the Vladimir Gusinsky Action;

12 WHEREAS, on May 25, 2017, this Court determined that the De Letter Action is related  
13 to the Vladimir Gusinsky Action, and, therefore, reassigned the De Letter Action to this Court;

14 WHEREAS, Plaintiffs' Counsel believe they may assert a single claim for a fee in  
15 connection with the prosecution of the Vladimir Gusinsky Action and the De Letter Action and  
16 the issuance of the Supplemental Disclosures, and have informed Defendants of their intention to  
17 petition for such a fee if their claim cannot be resolved through negotiations between counsel for  
18 Plaintiffs and Defendants (the "Fee Application");

19 WHEREAS, the parties agree that the Vladimir Gusinsky Action was filed before the De  
20 Letter Action and that any Fee Application relating to the Supplemental Disclosures will be filed  
21 only in the Vladimir Gusinsky Action and not in the De Letter Action; and

22 WHEREAS, all of the Defendants in the Action reserve all rights, arguments and  
23 defenses, including the right to oppose any potential Fee Application.

24 **IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned  
25 attorneys for the respective parties:

- 26 1. The De Letter Plaintiffs hereby agree to voluntarily dismiss the De Letter  
27 Action with prejudice as to only the named plaintiff and without prejudice  
28 as to the putative class pursuant to Fed. R. Civ. P. 41(a)(1);

2. Because the dismissal is as to the De Letter Plaintiffs only and no class has been certified, and because no consideration or compensation has been given or promised to the De Letter Plaintiffs or their counsel, no notice of this dismissal is required to the putative class;
3. The parties have requested that this Court retain continuing jurisdiction over the Vladimir Gusinsky Action solely for purposes of further proceedings related to the adjudication of Plaintiffs' Fee Application. If the parties reach an agreement to compromise and resolve the Fee Application, they will notify this Court. If no agreement can be reached, Plaintiffs will file the Fee Application no later than July 14, 2017;
4. This Stipulation is not intended to, and shall not, waive or prejudice any right or argument that may be asserted or presented by Plaintiffs or Defendants in support of or in opposition to any claim by Plaintiffs for attorneys' fees and expenses;
5. The De Letter Action is dismissed with prejudice as to only the named plaintiff and without prejudice as to the putative class forthwith; and
6. All other dates are vacated.

/s/ Evan J. Smith

Evan J. Smith (SBN 242352)  
BRODSKY & SMITH, LLC  
9595 Wilshire Boulevard, Suite 900  
Beverly Hills, CA 90212  
Telephone: (877) 534-2590  
Facsimile: (310) 247-0160  
Email: esmith@brodskysmith.com

/s/ Matthew W. Close

Matthew W. Close (SBN 188570)  
O'MELVENY & MYERS LLP  
400 South Hope Street  
Los Angeles, CA 90071-2899  
Telephone: (213) 430-6000  
Facsimile: (310) 430-6407  
Email: mclose@omm.com

*Attorneys for Plaintiffs Michel De Letter  
and Elizabeth De Letter*

*Attorneys for Defendants Ultratech, Inc.,  
Arthur W. Zafiropoulo, Ronald Black,  
Michael Child, Paramesh Gopi, Beatriz  
Infante, Dennis Raney and Henri Richard*

**ATTESTATION**

I hereby attest that the other signatory listed, on whose behalf this filing is submitted,  
concurs in the filing's content and has authorized the filing.

Dated: May 25, 2017

By: /s/ Matthew W. Close  
Matthew W. Close

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Honorable Phyllis J. Hamilton  
United States District Court Judge